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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1959

No. 578

CHARLES MANNINA,
Petitioner,
vs.
INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA, FOOD MACHINERY AND CHEMICAL CORPORATION and CALIFORNIA CASUALTY INDEMNITY EXCHANGE,
Respondents.

PETITION FOR A REHEARING.

ARTHUR L. JOHNSON, of
JOHNSON, THORNE, SPEED & BAMFORD,
181 N. 1st Street, San Jose 12, California,
Attorney for Petitioner.

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INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA, FOOD MACHINERY AND CHEMICAL CORPORATION and CALIFORNIA CASUALTY INDEMNITY EXCHANGE, *Respondents.*

PETITION FOR A REHEARING.

Pursuant to Rule 58, Paragraph 2, your Petitioner herewith files this Petition for Rehearing of the Court's decision of January 18, 1960, denying his petition for certiorari. Signed certificate of counsel to the effect that it is presented in good faith and not for purposes of delay and is restricted to the grounds specified is attached.

RESTRICTED TO MATERIAL IN SUPPLEMENTAL BRIEF.

It is, moreover, restricted to the material in the attached Supplemental Brief of Petitioner, which arrived in Washington too late for the Court's consideration before its decision and was returned by the Clerk. It is incorporated herein, as if here set forth in full, as the Petitioner's Petition for Rehearing.

PRAYER.

WHEREFORE, your Petitioner prays that the Court grant this Petition for Rehearing and or that the situation

be in some manner clarified for the benefit of counsel, who is in doubt whether the Petition for Certiorari was denied on technical grounds of some kind or whether the Honorable Justices of this Court really believe that it is physically possible for a doctor, or any other human being, to gauge the severity of a headache so as to raise this bar to the operation of the doctrine of *judicial notice*, failure to apply which has resulted in a decision based almost solely on guesswork, which is not substantial evidence and thus a denial of due process of law and the equal protection of the law to this invisibly injured worker as against a worker whose injury is plain to see and who suffers no such indignity as Constitution flouting.

Counsel asks this for his future guidance, since if the denial of the petition was on technical grounds only and not on the basis that doctors do have such supernatural powers, he intends to pursue the matter further even if he has to build a case from the ground up, with objection at every level, to every detail which the Court feels was not complied with in this test case. He also intends to bring in the case of the Federal worker, Naomi Laly (Page 22 of Petition), who sustained a hidden injury and was deprived of Constitutional guarantees but who would have no chance of relief if this Honorable Court really feels that doctors can x-ray or photograph pain. This counsel refuses to believe unless the Court says so directly and in plain language, for so long as there is any hope whatever for relief for the potential 70,000,000 sufferers in this regard, counsel will keep trying even if it takes him years to find the proper test cases since this ideal one seems to have failed him for some unknown reason. Will not the Court enlighten him as to this in the interest of justice and the well-being of the laboring population of America?

Dated, San Jose, California,
February 8, 1960.

Respectfully submitted,
ARTHUR L. JOHNSON, of
JOHNSON, THORNE, SPEED & BAMFORD,
Attorneys for Petitioner.

In the Supreme Court of the United States
October Term, 1950—No. 578
CHARLES MANNINA vs. INDUSTRIAL ACCIDENT COMMISSION, et al.
CERTIFICATE OF COUNSEL AS TO GOOD FAITH, ETC.

Counsel for Petitioner hereby certifies that the attached Petition for Rehearing is presented in good faith and not for delay and is restricted to the intervening circumstances of substantial or controlling effect as set forth in the said petition and other substantial grounds not previously presented, as set forth therein.

Counsel realized that certain deficiencies existed in his Petition for Certiorari and Reply Brief in this very important test case which deficiencies he felt important enough to call to the Court's attention, such as the omission of the concrete example of the doctor who actually testified in Court from both sides of his mouth at the same time on this subject of hidden injuries, thus proving *conclusively* that their "opinions" as to them are pure, unadulterated *guesses* and thus not substantial evidence. Your Petitioner forgot this glaring example of guesswork justice and how it operates in California in his previous presentations and, in his humble opinion, it is *controlling*. He also felt that the intervening attempted suicide of one of the victims of "guesswork" justice in California, driven almost insane by pain and suffering and denied relief by the Industrial Accident Commission on grounds as flimsy as mere, *guesswork* opinions warranted calling this to the Court's attention as an example of what happens when justice fails. Hence, his Supplemental Brief, which arrived too late for decision but not for Petition for Rehearing so is hereby presented again as such.

ARTHUR L. JOHNSON of
JOHNSON, THORNE, SPEED & BAMFORD,
Attorneys for Petitioner.

(Appendix Follows.)